

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
New DBSD Satellite Service G.P., Debtor-)	IB Docket No. 11-149
in-Possession, and TerreStar License Inc.,)	
Debtor-in-Possession)	
)	
Request for Rule Waivers and Modified)	
Ancillary Terrestrial Component Authority)	
)	
Fixed and Mobile Services in the Mobile)	ET Docket No. 10-142
Satellite Service Bands at 1525-1559 MHz)	
and 1626.5-1660.6 MHz, 1610-1626.5 MHz)	
and 2483.5-2500 MHz, and 2000-2020 MHz)	
and 2180-2200 MHz)	

RESPONSE

Iridium Satellite LLC (“Iridium”) hereby submits its Response to the comments Globalstar, Inc. (“Globalstar”) filed in the above captioned proceedings in which New DBSD Satellite Services G.P., Debtor-in-Possession, and TerreStar Licensee Inc., Debtor-in-Possession (together the “DISH Applicants”) request rule waivers and license modifications in connection with their respective ancillary terrestrial component (“ATC”) authorizations.¹ In its comments, Globalstar asks the Commission to extend the same ATC relief sought by the DISH Applicants to other mobile satellite service (“MSS”) bands, either through waivers or through rulemaking.²

¹ *New DBSD Satellite Service G.P., Debtor-in-Possession, and TerreStar Licensee Inc., Debtor-in-Possession, Request for Rule Waivers and Modified Ancillary Terrestrial Component Authority*, Public Notice, IB Docket No. 11-149 (September 15, 2011).

² Comments of Globalstar, Inc. in IB Docket No. 11-149, ET Docket No. 10-142, at 2 (filed Oct. 17, 2011) (“Globalstar Comments”).

I. INTRODUCTION & SUMMARY

Iridium takes no position on the merits of the DISH Applicants' pending applications with respect to their licenses and their 2 GHz spectrum band. However, given the critical importance of the widespread availability of the public safety, government, and commercial mobile satellite services provided by Iridium in the Big LEO MSS band, any actions the Commission takes in response to the DISH Applicants' waiver requests should not and can not serve as precedent for the Big LEO MSS band and its licensees (Iridium and Globalstar). Indeed, the Commission has previously agreed with Iridium on this point and rebuked Globalstar's prior attempt to use LightSquared Subsidiary LLC's ("LightSquared") ATC waiver in the L-Band as precedent for a similar waiver in the Big LEO MSS band.³ The FCC stated that Globalstar's request was "irrelevant" and limited the scope of LightSquared's L-band waiver as "predicated on the specific combination of facts and circumstances before us."⁴ Similarly, any decision the Commission makes in this proceeding should again have no bearing on operations in the Big LEO MSS band.

Moreover, Iridium notes that a rulemaking rather than ad hoc waivers is the appropriate means to address changes in the ATC rules and that Globalstar has not plead any ground for a waiver in any event. Waiver requests are fact-based inquiries that must be rooted firmly in the specific circumstances of the parties.⁵ Iridium files this Response to stress that there are

³ *LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component*, Order and Authorization, 26 FCC Rcd 566, ¶ 37 n.133 (2011) ("LightSquared Waiver Order").

⁴ *Id.* at ¶ 37, ¶ 37 n.133.

⁵ See 47 CFR § 1.3. Waiver applications "must plead with particularity the facts and circumstances which warrant such action." *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)) (internal quotation marks omitted).

significant differences between the 2 GHz MSS band, which has been largely unused since its original allocation, and the Big LEO MSS band, which is robustly used to provide critical public safety, federal government, and commercial mobile satellite services. Globalstar’s attempt to use this proceeding to achieve additional terrestrial flexibility in the Big LEO MSS band is procedurally inappropriate both because Globalstar has not—and could not have—filed or supported a formal waiver request, but also because broader modification of the Commission’s long-established ATC policies should only be pursued through a rulemaking proceeding. In fact, Globalstar has previously held an ATC waiver that was rescinded for non-compliance.⁶ Accordingly, the Comments of Globalstar do not provide any basis for its requested relief here or in any other proceeding before the Commission.

II. ANY ACTIONS TAKEN IN THIS PROCEEDING SHOULD NOT SERVE AS PRECEDENT FOR RULES AND POLICIES IN THE BIG LEO MSS BAND

While Iridium takes no position on the DISH Applicants’ waiver requests, there are substantial differences between the 2 GHz MSS Band and the Big LEO MSS Band that give this proceeding little relevance to operations in the Big LEO Band. Whereas Iridium is a global satellite operator that makes robust and varied use of the Big LEO MSS band for its public safety, federal government, and commercial customers, the 2 GHz MSS band is occupied by two bankrupt companies with a virtually nonexistent subscriber base. Thus, contrary to the implications of Globalstar’s comments, these two bands are not even remotely analogous and regardless of the Commission’s decision here, this proceeding should have no bearing on future policy determinations in the Big LEO MSS band.

⁶ See *Globalstar Licensee LLC, Application for Modification of License to Extend Dates for Coming into Compliance with Ancillary Terrestrial Component Rules*, Order, 25 FCC Rcd 13114 (2010) (“Globalstar ATC Suspension Order”).

Indeed, the Commission has already considered and rejected Globalstar's suggestion that ATC waivers granted in other MSS bands compel comparable action in the Big LEO band.⁷ In granting Lightsquared a waiver in the L-Band, the Commission based its decision on "the totality of the facts and circumstances unique to LightSquared's proposal."⁸ The Commission explicitly rebuked Globalstar's "hypothetical" request for a similar waiver in the Big LEO MSS Band as "irrelevant."⁹ The Commission further noted that analysis of any future filings in other MSS bands "would need to take into account the differences and the disparate facts."¹⁰ Thus, to preserve the unique and vital MSS capability provided through use of the Big LEO MSS band, the Commission should again reject Globalstar's attempts to use this proceeding to obtain unauthorized terrestrial rights in the Big LEO MSS band.

The Big LEO MSS band is robustly used for crucial satellite services and the Commission should ensure that sufficient spectrum remains available exclusively for these operations. Iridium utilizes the Big LEO MSS band to provide critical communications services to the Federal Government and first responders and to play a vital role during national and international emergencies. To support the growing demand for its unique and important satellite services, the Big LEO MSS band must be retained for primary use by MSS and any terrestrial use of this band must remain ancillary to MSS. Regardless of its decision on the DISH

⁷ Just as here, Globalstar's comments in the LightSquared proceeding requested LightSquared's relief in the L-Band be extended to Globalstar's operations in the Big LEO MSS band. Reply Comments of Globalstar, Inc. in SAT-MOD-20101118-00239, ET Docket No. 10-142, at 6-7 (filed Dec. 9, 2010) ("Globalstar Reply Comments").

⁸ LightSquared Waiver Order at ¶ 37 n.133.

⁹ *Id.*

¹⁰ *Id.*

Applicants' waiver requests, the Commission should take no action that would threaten the widespread use of the Big LEO MSS band for its intended mobile satellite services.

The public interest necessity of mobile satellite services is well established. In the 2010 Notice of Proposed Rulemaking and Notice of Inquiry regarding Mobile Satellite Service Spectrum, the Commission correctly noted "the importance of maintaining MSS to provide services, for example, to public safety and Federal government agencies, to rural areas, and during natural disasters."¹¹ Iridium's advanced MSS system provides these critical communications services to first responders, the Federal Government, and other users, and plays a vital role during national and international emergencies. Using the world's largest commercial satellite constellation, which consists of sixty-six low-Earth orbiting, cross-linked satellites operating as a fully meshed network and supported by multiple in-orbit spares, Iridium offers satellite communications coverage of the entire Earth's surface. Iridium already serves more than 500,000 subscribers worldwide,¹² and in some parts of the world, Iridium is the only available communications connection.¹³

Iridium's MSS system has played a critical role during national emergencies, such as Hurricanes Katrina and Rita, as well as international emergencies, such as this year's earthquake and tsunami in Japan and recent earthquakes in Haiti and Chile. Iridium also provides vital

¹¹ See *Fixed and Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, Notice of Proposed Rulemaking and Notice of Inquiry, 25 FCC Rcd 9481, 9494 (¶ 33) (2010) ("MSS NPRM and NOI").

¹² Press Release, Iridium, *Iridium Surpasses 500,000 Subscribers Worldwide* (Sept. 12, 2011), available at <http://investor.iridium.com/releasedetail.cfm?ReleaseID=604474> (last visited Oct. 26, 2011).

¹³ See *Iridium Commc'ns, Inc., Form 10-Q* (Aug. 8, 2011) ("Iridium 10-Q") at 15, available at <http://www.sec.gov/Archives/edgar/data/1418819/000119312511213233/d10q.htm> (last visited Oct. 26, 2011).

services to the Department of Defense and many federal U.S. bureaus, agencies and departments, including serving the critical and secure needs of U.S. and Coalition Forces throughout the Middle East region. Additionally, Iridium is a leading provider of maritime, aviation, machine-to-machine and land/mobile communications and the only provider of critical flight, maritime and worker safety applications in the polar regions.

Demand for Iridium's important and innovative services has increased and will continue to grow. In the past year, Iridium's subscribers have grown by approximately 24.8 percent across its product and service areas.¹⁴ And due to exceptionally high demand for Iridium's services during natural disasters and other emergencies, Iridium has been required to seek special temporary authority from the Commission to access additional spectrum. Further, Iridium's new Iridium Force initiative will spur innovation by opening and licensing its core technologies and network.¹⁵ Iridium Force will foster collaboration with a broader set of innovators and open new solutions for expanding new markets. Moreover, Iridium's next generation system, Iridium NEXT will provide new and enhanced services and place further demands on Iridium's spectrum. With launches expected to begin in early 2015, Iridium NEXT will provide faster and higher quality voice and data services to Iridium's global customer base, including public safety, first responder, and defense subscribers. These greater-bandwidth, next generation services are eagerly anticipated by Iridium's subscribers, and are certain to promote substantial additional usage of Iridium's network and spectrum resources.

¹⁴ See Iridium 10-Q at 16.

¹⁵ Press Release, Iridium, *Iridium Force™ - A New Vision for Global Communications - Designed to Enhance and Expand the Way People and Organizations Connect Everywhere* (Sept. 7, 2011), available at <http://investor.iridium.com/releasedetail.cfm?ReleaseID=609735> (last visited Oct. 26, 2011).

In applying for waivers of the ATC “integrated service” rule in this proceeding, the DISH Applicants relied on the “the unique features of the 2 GHz band and its existing licensees.”¹⁶ The 2GHz and Big LEO MSS bands could not be more different. Unlike in the 2 GHz band, where each licensee has only one satellite and there is virtually no active subscriber base, as described above, Iridium has deployed scores of satellites in the Big LEO MSS band and provides vital services around the globe. Thus, contrary to what Globalstar suggests and regardless of the merits of the DISH Applicants’ pending waiver requests, the Commission’s decision should not serve as a precedent in the Big LEO MSS band.

III. THIS PROCEEDING PROVIDES NO PROCEDURAL BASIS FOR MODIFICATION OF THE ATC GATING CRITERIA IN THE BIG LEO MSS BAND

There are no procedural grounds for the Commission to waive or otherwise modify the ATC gating criteria for the Big LEO MSS band in this proceeding. No waiver request relevant to the Big LEO MSS band is currently before the Commission, nor would such a waiver be justified. Moreover, to the extent that the Commission seeks to consider further changes to its ATC gating criteria, those policy changes should be addressed in the context of a rulemaking proceeding.

Notwithstanding the oblique references to a waiver, Globalstar did not request a waiver and made no attempt to satisfy the waiver standard in its comments. Waiver requests are addressed case-by-case, based upon specific facts and a public interest showing.¹⁷ No such

¹⁶ See *New DBSD Satellite Services G.P., Debtor-in-Possession Application for Modification of ATC Authority*, Application Narrative, SES-MOD-20110822-00985 (filed Aug. 22, 2011) at 3; *TerreStar License Inc., Debtor-in-Possession*, Application Narrative, SES-MOD-20110822-00983 (filed Aug. 22, 2011) at 3.

¹⁷ See 47 CFR § 1.3. Waiver applications “must plead with particularity the facts and circumstances which warrant such action.” *WAIT Radio*, 418 F.2d at 1157.

evidence relevant to the Big LEO MSS band has been submitted in this proceeding, which is concerned only with the waiver requests submitted by the 2 GHz MSS licensees.

Indeed, it should be noted that Globalstar previously held an ATC waiver and that authority was rescinded for non-compliance.¹⁸ Globalstar previously received conditional waivers of the ATC gating criteria requirements to provide continuously available satellite service throughout its geographic service area, to maintain spare satellites, and to provide an integrated MSS and ATC service.¹⁹ However, when Globalstar failed to meet the conditions of its waiver, which required it to come into compliance with the Commission's continuous MSS coverage and spare satellite requirements and to begin production of dual mode MSS/ATC devices, the Commission suspended its ATC authority.²⁰ At that time, the Commission indicated that Globalstar could only resume ATC operations if it came into compliance with the Commission's rules. Globalstar has not begun to make the necessary showings to support a reinstatement of its ATC authority, let alone the justification needed for a waiver, and thus its references to additional modification of its license should be disregarded.

Moreover, as indicated by Globalstar and others, any further modifications to the Commission's ATC gating criteria would be most appropriately addressed through a formal rulemaking proceeding.²¹ Such modifications would constitute significant changes in policy that could have far-reaching impacts on the Commission's allocation of scarce satellite spectrum

¹⁸ See Globalstar ATC Suspension Order.

¹⁹ See *Globalstar Licensee LLC, Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities*, Order and Authorization, 23 FCC Rcd 15975 (2008).

²⁰ See Globalstar ATC Suspension Order, ¶ 50.

²¹ See, e.g., Globalstar Comments at 4-5; Comments of CTIA – The Wireless Association® in IB Docket Nos. 11-149, 11-150, at 9-11 (filed Oct. 17, 2011); Comments of T-Mobile USA, Inc. in IB Docket No. 11-149, at 1 (filed Oct. 17, 2011).

resources as well as the business plans of numerous stakeholders within the satellite industry. Addressing these questions through a rulemaking proceeding would afford all interested parties a full and fair opportunity to present their positions to the Commission and would ensure that the Commission's rulings are applied in a competitively neutral manner that takes into consideration the specific characteristics of each MSS band. In fact, the Commission has already introduced an opportunity to consider the ATC gating criteria as part of the ongoing MSS Rulemaking Proceeding.²² That proceeding presents a more open and equitable opportunity for the Commission to examine the arguments surrounding a wider relaxation of the ATC gating criteria and, if it so chooses, to enact rules of general applicability for the satellite industry. To the extent the Commission wishes to reconsider its settled ATC precedents, the ongoing MSS rulemaking proceeding is the appropriate vehicle.

²² See MSS NPRM and NOI.

IV. CONCLUSION

Iridium provides communications services to first responders, government and military personnel, and other users through an expansive Big LEO band system that cannot be replaced by other communications providers. The DISH Applicants' waiver requests, on the other hand, involve a band in which limited services have been provided and spectrum has remained largely unused. Given these differences, agency action here does not provide a meaningful precedent for the Big LEO band. Furthermore, there is no basis for consideration of a modification of the Big LEO MSS Band ATC rules in this proceeding. If the Commission believes that its ATC gating regulations should be examined or revised, such issues should be considered as part of a rulemaking proceeding, such as the ongoing MSS Rulemaking Proceeding.

Respectfully submitted,

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October 27, 2011

Certificate of Service

I, Pamela Conley hereby certify that on this 27th day of October 2011, a copy of the foregoing Response of Iridium Satellite LLC was sent via USPS postage paid to the following:

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